

Elected Group II is Related to Each of Groups I, III, and IV

First, the Applicant submits that elected Group II is related to each of Groups I, III, and IV.

For example, regarding Groups II and I, the Applicant submits that the encoding method of claim 28 of Group II is related to the encoding method of claim 1 of Group I. Similarly, the encoding apparatus of claim 39 of Group II is related to the encoding apparatus of claim 13 of Group I. In particular, claims 28 and 39 refer to "a first audio decoder having no knowledge of the existence of the one or more cue codes" and "a second audio decoder having knowledge of the existence of the one or more cue codes," while claims 1 and 13 refer to "a first receiver that is aware of the existence of the embedded auditory scene parameters" and "a second receiver that is unaware of the existence of the embedded auditory scene parameters." While the Applicant does not admit that claims 28 and 1 are necessarily obvious over one another or that claims 39 and 13 are necessarily obvious over one another, nevertheless, the Applicant submits that the claims in Group II are sufficiently related to the claims in Group I to make the Examiner's restriction requirement improper.

Regarding Groups II and III, the Applicant submits that at least one embodiment of the encoding method of claim 27, the audio coder of claim 37, and the encoding apparatus of claim 38 of Group II can be used to generate at least one embodiment of the encoded audio bitstreams of claims 49 and 52 of Group III. As such, the Applicant submits that elected Group II is related to Group III.

Regarding Groups II and IV, the Applicant submits that at least one embodiment of the encoding method of claim 27, the audio coder of claim 37, and the encoding apparatus of claim 38 of Group II can be used to generate an encoded audio bitstream that can be decoded using at least one embodiment of the decoding method of claim 55, the audio decoder of claim 63, and the decoding apparatus of claim 64. As such, the Applicant submits that elected Group II is related to Group IV.

In view of the foregoing, the Applicant submits that elected Group II is related to each of Groups I, III, and IV.

There is No Serious Burden on the Examiner

Second, the Applicant submits that a serious burden would not be imposed on the Examiner to perform a complete search of the defined area in both the patent and non-patent literature. The only reason given by the Examiner in support of the existence of a serious burden is the Examiner's statement that the Groups have different classifications.

As a threshold matter, the Applicant submits that, as a matter of law, the fact that different groups of claims have different classifications does not, by itself, establish the existence of a serious burden on the Examiner.

Furthermore, in this particular situation, the Applicant notes that, according to the Examiner's own classification, Groups II and III fall within the exact same class (i.e., Class 700).

Moreover, the Applicant submits that the particular classifications assigned by the Examiner are substantially arbitrary and are therefore an improper basis for claiming serious burden. According to the Examiner:

- o Group I is classified in Class 381, Subclass 119;
- o Group II is classified in Class 700, Subclass 504;
- o Group III is classified in Class 700, Subclass 94; and
- o Group IV is classified in Class 704, Subclass 503.

First of all, the Applicant submits that Class 700 does not have a Subclass 504. Perhaps, the Examiner intended to cite Class 704, Subclass 504 or maybe some other subclass in Class 700 for Group II. In either case, Group II would be classified in the exact same class as one of the other groups (i.e., either with Group III in Class 700 or with Group IV in Class 704).

Moreover, the definitions of the various classes and subclasses cited by the Examiner are so close to one another that assigning a group to one class and subclass as opposed to another is largely arbitrary. For example, Class 381, Subclass 119, covers "Electrical Audio Signal Processing Systems and Devices with Mixer." In particular, Class 381 provides for "(a) wired one-way electrical transmission or processing systems for audio signals, (b) Stereophonic systems, which are not elsewhere classified, (c) instrument or process for converting an electrical audio information signal to or from humanly audible form." Subclass 119 provides "subject matter including a circuit having two or more inputs and a common output which combines separate input signals linearly in desired proportions to produce an output signal."

Meanwhile, Class 700 covers "Data Processing: Generic Control Systems or Specific Applications. Subclass 94 of Class 700 covers subject matter wherein a data processing or calculating computer apparatus (or corresponding method for performing data processing or calculating operation) is designed for or utilized in a particular art device, system process or environment, or is utilized for the solution of a particular problem in a field other than mathematics, wherein the particular art or field is the processing of digital data which represents an audio signal.

Class 704 covers "Data Processing: Speech Signal Processing, Linguistics, Language Translation, and Audio Compression/Decompression." Subclass 503 of Class 704 provides for "systems or methods for bandwidth compression or expansion of an audio signal, or for time compression or expansion of an audio signal, where there is either an expansion or reduction of the time required for transmission of a nonspeech sound signal."

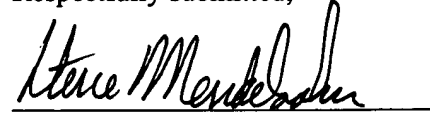
The Applicant submits that all four groups of claims identified by the Examiner could legitimately be classified in a single class, such as Class 700, Subclass 94, or Class 704, Subclass 503. By arbitrarily declaring that the different groups of claims have different classifications, the Examiner conveniently concludes that serious burden would exist.

Not only does the Applicant submit that no serious burden would result from considering all four groups of claims in a single application, the Applicant submits further that the arbitrary different classification of claims constitutes an improper basis for claiming serious burden.

For all of these reasons, the Applicant submits that the restriction is improper and that all of the pending claims should be considered in this application.

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